

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 028

June 23, 1958

DISSOLUTION: PRORATION OF FRANCHISE TAX

Syllabus:

A corporation is entitled to proration of its franchise tax for the year of dissolution.

A Co., a taxpaying corporation, transferred all its assets to B Corp., an exempt corporation which had acquired all of its stock. A Co. then dissolved, and since dissolution occurred in the middle of its taxable year, it requested proration of the tax paid for that year. Advice is requested as to whether A Co. is entitled to a proration of its franchise tax for the year of dissolution.

Although section 23332 of the Bank and Corporation Tax Law prohibits a refund or abatement of tax where the corporation is dissolved pursuant to a reorganization, the definition of reorganization found in section 23251 describes the transferee as a "corporation" and the section 23038 definition of "corporation" excludes exempt corporations. Therefore, if the transferee is exempt, there is no reorganization within the definition. There was clearly no reorganization as that term is used in the statute, and since there was a dissolution, A Co. is entitled to proration of the tax.